

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2004-161263-RMG

REGULATORY PROJECT MANAGER: Rebecca M. Gruber **Date:** February 17, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** **N** **Date:**

At the project site (Y/N) **Y** **Date:** 17 Feb. 2005

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Ozaukee

Center coordinates of site by latitude & longitude coordinates:

43.4140, -87.8603 (NAD 27)

Approximate size of site/property (including uplands) in acres

100 acres

Name or waterway of watershed: Milwaukee

11 unnamed wetlands

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands			X						
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved **X**

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

Of the eleven subject wetlands, two are open water wetlands, two are farmed wetlands, and seven are forested wetlands. In addition, two other wetlands (both “waters of the United States”) are present on the subject property.

The subject wetlands lie entirely within Sections 21 and 22 of Township 10N, Range 22E., Ozaukee County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin (intra-state wetlands). These wetlands do not display any connection to, nor are they considered adjacent to (separated by roadway or other anthropogenic structure) any waters of the U.S. The nearest connection to any waterway is a minimum of 400 feet away; therefore, these wetlands are considered isolated.

The eleven wetlands are not, nor are they likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetlands lie on private property, without any public access. In addition, none of the eleven wetlands contain fish or shellfish which could be taken and sold. For these reasons, no commerce connection to these eleven wetlands has been established.

As indicated above, two other wetlands were found on site, and were determined to lie within the regulatory jurisdiction of the Corps of Engineers pursuant to Section 404 of the Clean Water Act. These two wetlands are part of the tributary system of Lake Michigan, a navigable water of the United States.